EDUCATION OF NEGROES TESTED BY NEW RULING

Missouri Plans Law School for Them And South Studies Implications of Supreme Court's Action

IN FIGHT FOR SCHOOLS

Last Monday's Supreme Court ruling upholding a Missouri Negro's right of admission to the State University's Law School reopens the question of the educational system of the South. Possible effects of the decision are discussed in the following dispatches from Richmond and St. Louis.

SOUTH PUT IN QUANDARY

By VIRGINIUS DABNEY

RICHMOND, Va., Dec. 16.—The State-supported educational systems of the South have been severely jolted by the Supreme Court's ruling this week that a Missouri Negro must be admitted to the University of Missouri Law School, unless equal facilities are provided for him elsewhere within the State's borders. The decision is a notice to all the Southern States that they must make far-reaching readjustments.

It seems reasonable to infer that discrimination against Negroes in the public schools with respect to teachers' salaries, curriculum and equipment will be pronounced unconstitutional by the Supreme Court when proceedings already begun by the National Association for the Advancement of Colored People, headed by Walter White, reach that tribunal.

Southern college and university presidents and State officials are holding hurried conferences with a view to appraising the situation. There is virtual unanimity among them, and a good many Negro leaders agree, that maintenance of separate institutions for Negroes should be the general policy, rather than admission of Negroes to graduate and professional schools heretofore attended exclusively by whites.

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Walter White of the association for advancing colored people.

Cost as a Factor

At the same time, the possibility of organizing Negro branches of existing white institutions is not being overlooked. For example, it has been authoritatively suggested that the Medical College of Virginia at Richmond, which has a Negro hospital and a training school for Negro nurses, could readily add a medical school for Negroes.

The number of Negroes in any Southern State who desire graduate or professional instruction is so small that the maintenance of equal facilities in separate institutions for the two races would in some instances impose a severe and disproportionate burden. It might mean the operation of an elaborate and expensive establishment for the benefit of half a dozen students. Leaders in both races would like to see the setting up of a first-class centrally located university for Negroes from the whole South, financed with funds contributed by each State, but the Supreme Court's ruling apparently makes this impossible, since it requires every State to make available equal facilities for both races within its borders.

While applications for admission to various Southern State universities may be filed by Negroes next Fall, some Negro leaders are known to be anxious to avoid stirring up the inter-racial friction which would follow such action. It is understood that these leaders will seek to give the white officials, Legislatures and educators an opportunity to provide adequate facilities before forcing a showdown. Few, if any, States can by next September make the necessary adjustments required to provide separate but "equal" instruction for Negroes.

While some Southern States already make available to their Negro citizens a good grade of undergraduate training, leading to the B.A. or the B.S. degree, State-financed graduate or professional work is practically non-existent, and States which have been providing scholarships for Negroes to study at Howard University, Washington, D. C., or in Northern or Western universities are now told by the Supreme Court that this avenue is not enough.

In several of the far Southern Commonwealths, State-supported institutions of higher learning for Negroes are entirely lacking. What these States will do about the Supreme Court's decision is uncertain. There is talk that they might even refuse to do anything, and then would make it so uncomfortable for any Negro applying to one of their white institutions for admission that the practical effect of the court's ruling upon them might be virtually nil.

STATE EXPECTED TO ACT

By LOUIS LA COSS

ST. LOUIS, Dec. 16.—Lloyd L. Gaines, 26-year-old St. Louis Negro, won his three-year fight to be admitted to the Law School of the University of Missouri, but it is unlikely the doors of the State school will be opened to him to shatter a ninety-nine year precedent. The university will celebrate its centennial next year.

The General Assembly convenes on Jan. 4 and it is expected to make the Gaines case a matter of first consideration, by directing the immediate establishment of a school of law at Lincoln University, a State school for Negroes opened in 1921. The applicant would attend this.

Lincoln University at Jefferson City has the room space facilities for such a course, but the Legislature will doubtless be asked to make appropriations for faculty salaries and an adequate law library. This would mean an outlay of at least $10,000 annually for salaries, and most estimates are that $50,000 will be required for a library.

Young Gaines is a graduate of Lincoln, on which the State has spent some $3,500,000 since 1921. In the Fall of 1935 he sought by letter to enter the State University Law Department at Columbia and was accepted. When it was later discovered he was a Negro he was denied admission by the board of curators on the grounds that the constitution, laws and public policy of the State do not entitle a Negro to such a privilege, in that the State has provided educational facilities separately for whites and Negroes.

Tuition Provided

To such extent, declared the curators, there was no violation of the Fourteenth Amendment, this being the first time since the school was opened in 1839 that a Negro had attempted to enroll in the university.

It was also pointed out that the State made adequate provision for such Negroes as cared to pursue courses not offered at Lincoln University by furnishing tuition to some other school where Negroes are admitted. There is such privilege at the neighboring State schools in Iowa and Illinois and Kansas.

Gaines spurned the offer, sought a writ of mandamus in the Boone County Circuit Court, appealed to the State Supreme Court and when denied his petition there to the United States Supreme Court.

Gaines, now employed outside the State, says he is uncertain whether he will take a law course now that it is offered to him.

COURT DECISIONS AFFECTING THE NEGRO - 1 9 3 8

See: Discrimination for case of Lloyd Gaines

COURT BACKS NEGRO ON FULL EDUCATION

Orders Missouri to Admit Him to State Law School or Provide Equal Training

Special to THE NEW YORK TIMES.

WASHINGTON, Dec. 12.—In a six-to-two decision in the Supreme Court today ruled in effect that Lloyd Gaines, a St. Louis Negro, must either be admitted to the Law School of the University of Missouri or a school of law must be established at Lincoln University, maintained by Missouri for the higher education of Negroes, to which he can be admitted.

The majority opinion was handed down by Chief Justice Hughes. A dissent was written by Justice McReynolds and joined in by Justice Butler. The court again postponed ruling on the TVA case and one or two other important decisions.

The Hughes finding, reversing the Missouri Supreme Court, held that Mr. Gaines was entitled under the Fourteenth Amendment of the Constitution to a legal education equivalent to that provided for white students and that he had not received "equal protection" of the laws by the offer of Missouri to pay his tuition in an adjacent State where there was no discrimination against Negro students.

Mr. Gaines, a graduate of Lincoln University at Jefferson City, had asked for admission to the law school at the university. After his application was refused, he sought a writ of mandamus to compel the registrar and the board of curators to admit him. The Missouri courts denied the application for mandamus, whereupon Mr. Gaines brought the case to Washington.

Justice Hughes said the high court was of the opinion "that petitioner was entitled to be admitted to the law school of the State University in the absence of other and proper provision for his legal training within the State."

Gaines Qualified for Law Study

The Chief Justice, in his opinion, observed that it was admitted at the trial that Mr. Gaines's work and credits at Lincoln University would qualify him for admission to the university law school, if he were found otherwise elegible.

"He was refused admission," said Justice Hughes, "upon the ground that it was 'contrary to the Constitution, laws and public policy of the State to admit a Negro as a student in the University of Missouri.' It appears that there are schools of law in connection with the State Universities of four adjacent States, Kansas, Nebraska, Iowa and Illinois, where non-resident Negroes are admitted."

Missouri, the Hughes ruling said, had established separate high school facilities for Negro students equal to those furnished for whites and also separate schools of higher education giving advantages substantially similar to those afforded the white students.

"But commendable as is that action," the opinion continued, "the fact remains that instruction for law is not now afforded by the State, either at Lincoln University or elsewhere within the State, and that the law excludes Negroes from the advantages of the law school it has established at the University of Missouri."

"The question here," the opinion later said, "is not of a duty of the State to supply legal training, or of the quality of the training which it does supply, but of its duty when it provides such training to furnish it to the residents of the State upon the basis of an equality of right.

"By the operation of the laws of Missouri a privilege has been created for white law students which is denied to Negroes by reason of their race. The white resident is afforded legal education within the State; the Negro resident having the same qualifications is refused it there and must go outside the State to obtain it. That is a denial of the equality of legal right to the enjoyment of privilege which the State has set up, and the provision for the payment of tuition fees in another State does not remove the discrimination."

The McReynolds-Butler dissent asserted that the Missouri Supreme Court had "well understood the grave difficulties of the situation and rightly refused to upset the settled legislative policy of the State by directing a mandamus."

"For a long time Missouri has acted upon the view that the best interest of her people demands separation of whites and Negroes in schools," Justice McReynolds added. "Under the opinion just announced, I presume she may abandon her law school and thereby disadvantage her white citizens without improving petitioner's opportunities for legal instruction; or she may break down the settled practice concerning separate schools and thereby, as indicated by experience, damnify both races. Whether by some other course it may be possible for her to avoid condemnation is a matter for conjecture.

"The State has offered to provide the Negro petitioner opportunity for study of the law—if perchance that is the thing really desired—by paying his tuition at some near-by school of good standing. This is far from unmistakable disregard of his rights and in the circumstances is enough to satisfy any reasonable demand for specialized training. It appear that never before has a Negro applied for admission to the Law School and none has ever asked that Lincoln University provide legal instruction."

In petitioning the Supreme Court, Mr. Gaines said that sixteen States excluded Negroes from their universities because of race and color. Six of these, he added, had scholarship provisions for study outside the States. Maryland has special provisions. Ten States, he said, made no provision for graduate or professional training of Negroes.

Fought Three Years for Action

LANSING, Dec. 12 (AP).—Lloyd L. Gaines, employed here on a WPA-sponsored compensation survey for the Michigan Civil Service Department, declined to comment today on his successful fight in the Supreme Court for equal educational privileges for Negroes.

Mr. Gaines, whose application for admission to the University of Missouri, was rejected in 1935, said he would confer with his attorneys in New York and St. Louis before planning to continue his education.

FOR HUMAN RIGHTS

Once more the Supreme Court has spoken out in defense of equality of human rights. It has held that as long as the State of Missouri chooses to provide training for law students it must not deny to Negroes, as it has done, a privilege that it extends to white law students.

We do not think that the critics who so often denounce the Supreme Court for "obstructing the will of the people as expressed through their Legislatures" will object strongly to this decision. They will recognize in this case that the court was acting in accordance with the provisions of the Constitution.

The decision cannot be ascribed to the effects of the President's Court enargement campaign. The Court's record on this type of decision goes too far back for that. It was the Supreme Court that insisted on new trials for the Scottsboro Negroes. It was the Supreme Court that set aside the death sentences of three Mississippi Negroes, several years ago, on the ground that they had been obtained by "confessions" exacted under torture. It was the Supreme Court that set aside, in January, 1937, the conviction of an Oregon Communist for allegedly advocating criminal syndicalism, sabotage and the overthrow of the Government by violence—the conviction having rested simply on the fact that the man was a member of the Communist party. Of those critics who argue that the Supreme Court merely defends the "plutocracy" and the "corporations," it is charitable to assume that they have bad memories.

Supreme Court Again Thwarts NLRB Ruling

Reinstatement Denied Seamen In Sit-Down Strikes Aboard Ship

WASHINGTON, Dec. 12.—(AP)—The Supreme Court today thwarted an effort of the National Labor Relations Board to reinstate 145 seamen who were discharged after two ships had been seized in sit-down strikes.

Without explaining its action, the court refused a board request that it review a decision of the Fifth Federal Circuit Court, which set aside a board order requiring reinstatement of the men.

The order had been declared against the Peninsular and Occidental Steamship Company.

It was the second setback within as many week for the NLRB. The court ruled for the last Monday that the board had exceeded its authority in ordering cancellation of contracts between AFL unions and the Consolidated Edison Company of New York. As in that case, the American Federation of Labor appeared in opposition to the board in the proceedings ended today.

In the steamship dispute, the NLRB ordered the strikers reinstated with back pay. It contended the men were discharged because they joined and assisted the National Maritime Union, a CIO affiliate.

At the time of the dispute, the International Seamen's Union (AFL) had contracts with the company, which operates the steamers Florida and Cuba between Miami and Port Tampa Fla., and Havana.

Crew members on the Florida struck at Tampa on June 4, 1937, asserting they wished to change their union affiliation from the AFL to the CIO. Members of the Cuba crew joined the strike. It was settled by intervention of the Labor Department.

Two weeks later members of the crew on the Cuba who still favored AFL affiliation refused to sail with those who had joined the CIO, and a new strike resulted. Crews of both the Florida and the Cuba were discharged and the AFL union, under its contract, supplied new crews.

The Circuit Court decided that the seizing of the ships by sit-down strikers was "at least prima facie evidence that the crews were guilty of mutiny."

It added:

"It would be gross negligence for a vessel to put to sea with that kind of a crew."

The AFL contended the Circuit Court's decision should be allowed to stand. It argued that the Labor Board order "declined to give effect to an existing contract."

Ruling For Negro

In its only formal decision today, the High Court ruled that the University of Missouri should admit Lloyd Gaines, a negro, to its school of law.

(In Lansing, Mich., where he is employed on a WPA-sponsored survey, Gaines declined to say whether he would enter the school, which previously had refused to admit him).

Chief Justice Hughes wrote the majority opinion. Justices McReynolds and Butler dissented.

Missouri provides separate schools for negroes, including Lincoln University at Jefferson City. In addition, it provides for payment of tuition at schools in adjacent States for negroes who wish to study subjects provided at schools for whites but not at the negro institution.

The Missouri Supreme Court upheld a ruling that the scholarship provision was adequate.

"We are of the opinion," Hughes said, * * * "that petitioner was entitled to be admitted to the law school of the State University in the absence of other and proper provision for his legal training within the State."

Brushing aside, as beside the point, Missouri's scholarship arrangement and provision for establishment of a law school at Lincoln University when the curators deemed it necessary, the chief justice said the State "was bound to furnish him (Gaines) within its borders facilities for legal education substantially equal to those which the State there afforded for persons of the write race, whether or not negroes sought the same opportunity."

Dissenting, McReynolds said the Missouri Supreme Court "arrived at a tenable conclusion and its judgment

should be affirmed."

"That court well understood the grave difficulties of the situation," he said, "and rightly refused to upset the settled legislative policy of the State."

Noting Missouri's view that its best interests demanded separation of whites and negroes, McReynolds continued:

"Under the opinion just announced, I presume she may abandon her law school and thereby disadvantage her white citizens without improving petitioner's opportunities for legal instruction; or she may break down the settled practice concerning separate schools, and thereby, as indicated by experience, damnify both races."

In another case involving a negro, the Supreme Court agreed to review a decision by the Tenth Circuit Court of Appeals, which refused I. W. Lane, negro of Wagoner County, Okla., a $10,000 judgment against election officials whom he accused of denying him the right to register or vote in the county.

Mooney Plea Denied

The High Court denied a petition for a writ of habeas corpus for Tom Mooney, labor leader serving a life sentence in San Quentin Penitentiary, Calif., for complicity in the 1916 preparedness day bombing at San Francisco. A similar petition was denied last week.

John F. Finerty, Mooney's attorney, commented in a statement to the press:

"The Mooney case ends in the courts as it began — a disgrace to American justice and to American courts."

Governor-elect Culbert Olson of California said recently that he believed Mooney to be innocent, and that he would give prompt consideration to a pardon application.

Court Decisions Affecting the Negro-1938

Poor Have Rights That Can't Be Denied

One hot day late August a driver for the Tri-State Transit Company, operators of a bus line in Mississippi, being new to the route, lost his way. The result was that he wound up some three miles from the point to which Della Martin, a negro woman, had bought her ticket. Della was put off and had to trudge the way back, toting two children.

Result, she sued the bus company, the trial came on in the Circuit Court of Madison County at Canton.

Countered the bus company, that Della could have secured transportation if she had exercised reasonable care, and thereby would have suffered no injury. But she contended that she had no money, and that she had a right to expect that the bus company would deliver her to the point to which she bought her ticket.

Said the Mississippi Supreme Court in an interesting opinion Monday, that Della's contention was proper, added, "the poor are

entitled to avail themselves of the facilities of public carriers upon payment of the public rate, and are not required to have an additional sum to provide against the consequence of a breach of contract on the part of the carrier." Further result, a judgment in Della's favor for $1925 was affirmed.

Miss. Landlord To Pay Negro Tenant $2,279

JACKSON, Miss.—J. W. Copeland, landlord who charged his colored tenant, Les Taylor, 20 per cent interest on [illegible] advanced to assist Taylor in making a crop, must pay Taylor $2,279, the State Supreme Court ruled Tuesday.

The court ruled that Copeland forfeited both principal and interest by charging usurious interest on a crop loan. Copeland lost the case in the lower courts and appealed.

Mississippi Court Renders Justice To a Negro Farmer

A VERDICT handed down by the supreme court of Mississippi last week may take on historic significance in the south. It strikes at one of the oldest and most indefensible social abuses known in that region. A Negro tenant farmer on a plantation in Washington county brought suit in the courts against his plantation landlord, charging that he had been defrauded in his accounts at the plantation store. This suit was in itself a sign of the social stirrings which are taking place in the cotton country, and indicated the influence which the growth of the Southern Tenant Farmers Union has already had on the sharecroppers. The Mississippi supreme court, when the case finally came before it, ruled that Less Taylor, the Negro, should collect $2,279.91 from his landlord, holding that the landlord had forfeited both interest and principal, having "charged and collected more than 20 per cent per annum" on the note Taylor had given for supplies advanced. Many a delta landlord is likely to find in the verdict added proof that red ruin and revolution is sweeping over the south. What is the country coming to if a Negro sharecropper or tenant farmer can't be mulcted with impunity at a plantation store? Our readers are familiar, we are sure, with the system whereby the tenant buys his supplies at the plantation store, giving a note in payment. The cost of these supplies is then charged against the cotton crop which the tenant is making. Itemized accounts are seldom rendered, and the tenants and sharecroppers—often illiterate—have usually felt forced to accept without question the landlord's accounting at the end of the cotton season. But there has been widespread discontent over the frequency with which store accounts came out in such a way as to leave the tenant either barely even with his landlord creditor or in perpetual debt. Frequent doubts have been cast on the honesty of the plantation accounting. The highest court in Mississippi has now not only lent credence to these doubts, but it has offered the most exploited group in the south hope that it can obtain protection and justice from the courts.

Raleigh, N. C., News & Observer
June 1, 1938

Good News

It is the best news that the Supreme Court of the State of Mississippi has awarded a Negro tenant farmer a judgment of $2,279.91 against his white landlord on the ground that the latter charged usurious interest on a cotton crop loan. There will undoubtedly be those who will minimize the importance of this judgment on the grounds that simple justice should not constitute news. Of course, it should not. Unfortunately, however, the impression has been made that a Negro tenant in the South has no chance of justice in a difference with a white landlord. And undoubtedly it is sometimes difficult for a poor Negro to get his rights when a white man undertakes to deprive him of them. The poor everywhere, regardless of race, are too often victimized by those with the power to do so. But wherever a Negro is so treated in the South it occurs without the agreement of the great majority of Southern white men. This decision of the Southern State which has both the highest proportion of Negroes and the highest proportion of tenancy is welcome testimony that justice in the South is not hamstrung by either race or wealth.

MISSISSIPPI

Usury

Most of the cotton South's 1,700,000 tenant farmers live by The Book, and The Book is not the Holy Bible. It is a ledger where "furnish" is entered. Furnish is credit for "side meat" (salt pork), molasses, cornmeal, seed, sometimes for a mule and a plow. Landlords, or merchants dependent upon them, run The Book. Without furnish, few tenants could live through the winter, or plant in the spring.

In fall, after The Book is toted, a tenant's crop may not be worth enough to pay for what he owes. If cotton is selling at 10¢ a lb. or better, he may receive one or two hundred dollars. But he has an immense yearning for a store suit, a cotton dress for his wife, a few pretties for his children, perhaps a second-hand Chevrolet or a splendid, ancient Studebaker. So, either way he goes on living by The Book.

Chief difference between Negro Less Taylor, a tenant on the J. W. Copeland plantation in Washington County, Miss., and 200,000 other sharecroppers and renters in Mississippi, is that Less Taylor got for his lawyer old Percy Bell of Greenville, onetime chancery judge and independent as a hog on ice. Chief difference between Landlord Copeland and many another in the Yazoo Delta is that he did not get away with making a good thing of The Book. At Jackson last week, the supreme court of Mississippi reversed a Washington County Chancery judgment, declared: "According to the appellee's [Copeland's] own testimony, including his book account, there is no escape from the conclusion that he charged more than 20% per annum on the furnish account." Thereby, ruled the court, Planter Copeland forfeited not only interest but principal, owes Negro Taylor $2,279.91 (equal to the full value of his cotton without deduction for furnish).

This application of the law of usury was a nasty jolt to Mississippi's cotton planters. It meant that henceforth they cannot charge more than legal interest or furnish unless they want to run the risk of supplying it free.

Sharecropper Saved In Usury Case

JACKSON, Miss., Oct. 12 — A plea of usury saved Les Taylor, Negro sharecropper, $2,279 when the State Supreme Court decided in favor of Taylor, declaring that J. W. Copeland, white landlord, had forfeited principal and interest, because he had charged as high as twenty per cent interest on a cotton crop loan.

Taylor won the decision in the lower court, but Copeland took it on appeal to the Supreme Court, where it was upheld.

This decision, it was said, would have the tendency to break up such usurious loans to sharecroppers which affect both white and Negro farmers in large sections in the South.